

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ANDREW NEAL DAVIS)	
)	
v.)	No. 3:11-00343
)	JUDGE CAMPBELL
WAYNE CARPENTER, WARDEN ¹)	

ORDER

Pending before the Court are the Magistrate Judge's Report and Recommendation (Docket No. 51), the Petitioner's Objections To Magistrate's Report And Recommendation And Request For Hearing (Docket No. 52), the Respondent's Response (Docket No. 56), and the Petitioner's Reply (Docket No. 61). The Court heard argument on September 2, 2014.

The Court has independently reviewed the Magistrate Judge's determinations, the Petitioner's objections, and the entire record. The Petitioner's objections are without merit and are overruled. The Report and Recommendation is ADOPTED and APPROVED in its entirety. Accordingly, the Petitioner's Petition For Writ Of Habeas Corpus (Docket No. 1) is DENIED and this case is DISMISSED.


This Order shall constitute the judgment in this case pursuant to Fed. R. Civ. P. 58.

Should the Petitioner give timely notice of an appeal from this Order, such notice shall be treated as a application for a certificate of appealability, 28 U.S.C. 2253(c). The Court concludes

¹ At the hearing, the Court granted the Respondent's motion to substitute Warden Wayne Carpenter for Ronald Colson. Fed.R.Civ.P. 25(d).

that such an application for a certificate of appealability should issue in this case on the claim of ineffective assistance of counsel based on trial counsel's failure to procure and present a medical expert in the Petitioner's defense at the Petitioner's second trial. Castro v. United States, 310 F.3d 900 (6th Cir. 2002).

It is so ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE